

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON FINANCE**

**Call to Order:** By **CHAIRMAN BOB KEENAN**, on February 8, 2001 at 5:00 P.M., in Room 317-C Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Bob Keenan, Chairman (R)  
Sen. Ken Miller, Vice Chairman (R)  
Sen. Tom A. Beck (R)  
Sen. Chris Christiaens (D)  
Sen. William Crismore (R)  
Sen. Greg Jergeson (D)  
Sen. Bea McCarthy (D)  
Sen. Linda Nelson (D)  
Sen. Debbie Shea (D)  
Sen. Corey Stapleton (R)  
Sen. Bill Tash (R)  
Sen. Mignon Waterman (D)  
Sen. Jack Wells (R)  
Sen. Tom Zook (R)

**Members Excused:** Sen. John Cobb (R)  
Sen. Royal Johnson (R)  
Sen. Arnie Mohl (R)  
Sen. Jon Tester (D)

**Members Absent:** None.

**Staff Present:** Prudence Gildroy, Committee Secretary  
Jon Moe, Legislative Fiscal Division

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 331, 2/13/2001; SB 231,  
2/13/2001  
Executive Action: 332

**{Tape : 1; Side : A}**

**HEARING ON SB 331**

**Sponsor:** SEN. BOB DePRATU, SD 40, Whitefish

**Proponents:** Tom Ebzery, Montana Contractor's Association

**Opponents:** Larry Fasbender, Deputy Director, Department of Justice

**Opening Statement by Sponsor:**

SEN. BOB DePRATU, SD 40, Whitefish, introduced SB 331, a bill to revise highway patrol funding. The reason for the bill is to shift funding from the restricted highway revenue account to general fund. The problem with the state special revenue account is that money is being made available to the state from the federal government that requires an \$.87 to \$.13 match. For each dollar that is spent on highway construction, the state has to provide \$.13 through the state special revenue account. That account will be going into the red soon. In 1987, the highway patrol expense account was moved from general fund into this account. It amounts to about \$17.5 million per year. That is a lot of money when the match is considered. Decisions have to be made about how the highway patrol is funded.

**Proponents' Testimony:**

Tom Ebzery, Montana Contractor's Association, said SB 331 is a very simple bill. The association is very concerned about the fund, which may go into the red in 2003 or much sooner. With the 87-13 match from the federal government, the state would be well to use every dollar possible to get the federal match and use the money for highway construction. There is a small fiscal deficit involved. He urged the committee to consider the action in the bill, a possible phase-in, or a study over the interim.

**Opponents' Testimony:**

Larry Fasbender, Deputy Director, Department of Justice, said the department recognizes the situation that is evolving with highway funding. Their concern is that the bill, the way it is currently constructed, takes money away from the highway patrol that currently comes from the state special highway account without replacing it. If this legislation passes, the money for the highway patrol would have to come out of general fund, further increasing the current problem with ending fund balance by about \$17 million. The DOJ would be willing to continue to work with

interim committees to phase the highway patrol back into the general fund. The options for funding are not very palatable. Either the gas tax would have to be raised, or additional funds would have to come from the general fund. The highway patrol feels that the issue needs some study and that nothing should be done at this time to change the funding.

**Questions from Committee Members and Responses:**

**SEN. MIGNON WATERMAN** stated that in the tax and revenue committee in the interim, they were told that funds would not run out until the 2<sup>nd</sup> biennium and wondered if something had changed. **David Galt, Director Department of Transportation**, said that upon taking office in January he reviewed the budget submission before the committee and took out \$1.5 million of department requests, present law adjustments, and new proposals. The preliminary budget was heard in the subcommittee, and if R.O.C. (Revenue Oversight Committee) revenues are used, the department is not shown to be in the red. The fund account looks healthy after the cuts were made. His concern is that gas tax revenues are currently below R.O.C. revenues. That is based on first and second quarter actuals, and guessing on third and fourth quarter. Gas tax revenues alone, which are the major fund source for the highway special revenue account, are \$6 million below R.O.C. revenues. His records show that they will stay above 0 balance in the fund and will have several million dollars in the fund up until 2006, but will not have the working capital balance of \$10 million that was aimed for. That means money will have to be borrowed to pay contractor payments.

**Closing by Sponsor:**

**SEN. DePRATU** closed on SB 331, stating that \$17 million means over \$100 million in federal matching dollars. The funding problem is serious, and needs to be addressed.

**HEARING ON SB 231**

**Sponsor:** **SEN. DUANE GRIMES, SD 20, Clancy**

**Proponents:** **SEN. BILL GLASER, SD 8, Huntley**  
**Lance Melton, Executive Director Montana School Board Association**  
**Loran Frazier, School Administrators**  
**Bill Cooper, Deputy Superintendent, Office of Public Instruction**  
**Eric Feaver, MEA-NFT**

**Opponents:**       None.

**CHAIRMAN BOB KEENAN** stated that SB 231 had a hearing before the Education and Cultural Resources Committee and went to the floor of the Senate, where there was some concern about the accuracy of the fiscal note. He said that the committee would discuss the fiscal note and whether a revised fiscal note is needed.

**EXECUTIVE ACTION ON SB 332**

While the committee waited for certain individuals to be called in for the hearing on SB 231, **SEN. WATERMAN** presented a fiscal note for SB 332. The bill was being held in committee until a fiscal note was received. The fiscal note is not the right fiscal note, and the amendments need to be put on the bill in order to get the right fiscal note. The amendments simply make the elimination of the assets test apply to all poverty level programs. The current fiscal note only applies to infants' and childrens' programs, which was not her intention for the bill. She wanted to put the amendment on the bill, hold the bill in committee, get an accurate fiscal note and then discuss the bill again.

**SEN. WATERMAN** moved to **amend SB 332 to make the elimination of the assets test apply to all poverty level programs. The motion passed unanimously.**

**CHAIRMAN KEENAN** again addressed SB 231, stating that the hearing was more of an informational hearing on the fiscal note rather than a policy hearing.

**Opening Statement by Sponsor:**

**SEN. DUANE GRIMES, SD 20, Clancy**, introduced SB 231, a bill to revise ANB to include pupils educated via distance learning. He said that the issue that came up on the floor of the Senate regarding SB 231, was regarding what would happen if all the kids that could possibly take advantage of the change in policy did so. **SEN. GRIMES** stated that there is not heightened interest in the bill. The result of passage of the bill will be a cautious approach by school districts to implement authorized distance learning. When the staffers originally contacted **SEN. GRIMES** about the fiscal note, he told them that about 5% of the people would express some interest. That was thought to mean that 5% would take advantage of it, which is not the case. If the bill is passed, the committee could decide to review the situation in two years.

**Proponents' Testimony:**

**SEN. BILL GLASER, SD 8, Huntley,** said that distance learning, as currently set up in SB 231, is nothing more than allowing a child to stay remote from the school for learning purposes and still have the same teachers and curriculum. There could be transportation savings. He did not envision children not currently in the system jumping onto this program, particularly in the short run. The non-traditional student that home schools is probably not going to jump into this program until they feel more comfortable with the schools. The bill allows the school system to move into the 21<sup>st</sup> century. It allows a beginning so that school boards, teachers, people that do collective bargaining for teachers, and parents can evaluate distance learning as a tool in Montana. He stated that it is a tremendous tool in Alaska and Australia. He said the fiscal note is not realistic. He suggested that since the bill came out of the Senate Judiciary Committee with a unanimous vote, that the act be sunset in two years. After two years of experience, the legislature can look at the issue again.

**SEN. GRIMES** stated that most parents that are home-schooling have the conviction that parents should be doing the educating. This is why there is no great interest from that pool. The kids most affected by this bill are already in the school system.

**Lance Melton, Executive Director Montana School Board**

**Association,** supported SB 231. He agreed with the sunset provision that was suggested by **SEN. GLASER.** The fiscal note misses that it is highly likely that most participants are already accounted for in the ANB counts. Districts most frequently talk about using this for alternative education for high school students. He thought the possibilities for home-school kids participating are reasonably estimated in the fiscal note, but it is just speculation. He hoped that SB 231 would lead to a more adaptable and flexible product in public education and urged support for the bill.

**Loran Frazier, School Administrators,** supported the bill as a good concept utilizing the technology available in the 21<sup>st</sup> century. It gives schools the opportunity to think outside the box. Some school districts that are interested in doing more with technology will get the ball rolling. There will be school choice by parents and students. He urged passage of SB 231.

**Bill Cooper, Deputy Superintendent, Office of Public Instruction,** agreed with the previous testimony. There are some uncertainties with regard to the financial commitment that will have to be

made. OPI will cooperate with the education community to reach those who would benefit from the bill.

**Eric Feaver, MEA-NFT**, supported the bill. He did not think the bill would cost the state unexpected dollars. MEA-NFT will work with all parties to make the program work.

**Questions from Committee Members and Responses:**

**SEN. GREG JERGESON** asked if it has been investigated how much it will cost for teachers to do the extra work involved. **Mr. Melton** answered that they have worked on a distance learning standard that the Board of Public Education has been reviewing. They participated in a rule making caucus where the issue was discussed. Teacher time would have to be accounted for. If distance learning ever really got off the ground where a whole classroom was participating, then a teacher's time would have to be devoted to that class. Nothing has been documented so far regarding teacher time. **SEN. JERGESON** asked if they examined working models of distance learning in the university system. **Mr. Melton** said they worked on the bill with **John Coughlin, University of Montana**. Those discussions were held but putting a specific teacher student ratio in the bill was not considered. **SEN. JERGESON** hypothesized that if a teacher has ten kids and three take the class by internet that it would increase the workload and therefore affect compensation. **Mr. Melton** replied that would be a matter of local control and part of the collective bargaining process. **SEN. JERGESON** expressed concern about an unfunded mandate. **Mr. Melton** answered that it is not an unfunded mandate as defined by the legislature. An unfunded mandate is a mandate that has no money mechanism and this bill has one. The ANB is the funding mechanism and the inclusion of the students in the ANB count is not a mandate, it's a definition of terms. **SEN. JERGESON** asked if **Mr. Melton** would be willing to converse with his sources about costs. **Mr. Melton** said he would be glad to do that and report back.

**SEN. CHRIS CHRISTIAENS** said he saw an opportunity to provide education in detention centers for juveniles with the bill.

**{Tape 1, Side B}**

**SEN. CHRISTIAENS** wondered if he was familiar with how it would work with detention centers. **Mr. Cooper** stated that he was not that familiar with detention centers. The ANB would be collected in the school in which the student was enrolled. The student is enrolled, but is taking the class electronically. **SEN.**

**CHRISTIAENS** thought an example would be the Brown School program at Deer Lodge. The students would come from throughout the state. If the Deer Lodge community was providing education, he

would want to make sure that the ANB be collected there. Mr. Cooper had no further comment.

**SEN. WATERMAN** asked if it was correct that a number of schools, especially rural schools, were already offering distance learning. **Mr. Cooper** said that was correct. **SEN. WATERMAN** further queried if those schools were contracting with a distance learning entity to provide courses to their students. A distance learning student in Helena might be provided a class from the Helena School District, but another source may provide the class by contract. **Mr. Cooper** said that was correct as long as it fit the current accreditation rules that control distance learning. **SEN. WATERMAN** indicated the Helena School district offered a number of computerized courses and contracted with educators to provide those. **Mr. Cooper** said that was correct. **SEN. WATERMAN** asked **SEN. GLASER**, regarding **SEN. ELLIS's** tuition bill, whether state placed children are covered by the state. That would apply whether they were placed by corrections or by foster care. **SEN. GLASER** said he was not sure. He stated that the Saco school system has been doing distance learning with the Hutterites for ten years. **SEN. WATERMAN** indicated she had visited that school. They get  $\frac{1}{2}$  ANB because the children are in school only half time. The other half of the time the school donates. A school district can't go out into the state gathering students. Maybe someday the community will be more comfortable with those kinds of changes.

**Closing by Sponsor:**

**SEN. GRIMES** closed on SB 231. He believed the bill is timely and a step into a new environment. He was intrigued by the idea that some savings could eventually be realized by implementation of the bill. He would consider it a friendly amendment if the committee wanted to sunset the bill.

**ADJOURNMENT**

Adjournment: 5:45 P.M.

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SEN. BOB KEENAN, Chairman

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PRUDENCE GILDROY, Secretary

BK/PG

**EXHIBIT** (fcs32aad)